

ESTTA Tracking number: **ESTTA312840**

Filing date: **10/21/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

| | |
|---------------------------|---|
| Proceeding | 92051532 |
| Party | Plaintiff PictureCode, LLC |
| Correspondence Address | Katherine Klammer Madianos 3606 Enfield Road Austin, TX 78703 UNITED STATES katherine@madianoslaw.com |
| Submission | Other Motions/Papers |
| Filer's Name | Katherine Klammer Madianos |
| Filer's e-mail | katherine@madianoslaw.com |
| Signature | /Katherine K. Madianos/ |
| Date | 10/21/2009 |
| Attachments | NoticeofFailedService.pdf (2 pages)(22963 bytes) |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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|----------------------------------|---|---------------------------|
| In re Registration No. 3,321,797 |) | |
| Mark: DIGITAL NINJA |) | |
| Issued: October 23, 2007 |) | |
| |) | |
| |) | |
| PICTURECODE, LLC, |) | Cancellation No. 92051532 |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | |
| |) | |
| JUAN B. MELENDEZ III |) | |
| |) | |
| Registrant |) | |

NOTICE OF RETURNED MAIL

PictureCode, LLC (“**Petitioner**”), filed a Petition to Cancel the DIGITAL NINJA registration held by Juan B. Melendez III (“**Registrant**”) on October 1, 2009. On such date, Petitioner’s attorney delivered a copy of the Petition to Cancel to Federal Express for overnight delivery to Registrant at the address listed on the PTO’s website as follows: 4280 Lindblade Drive, Apartment 104, Los Angeles, California 90066-5899. After several delivery attempts, this Federal Express was returned to Petitioner’s counsel on October 13, 2009 as undeliverable because “Customer not available or business closed - Access is controlled by customer.”

On October 1, 2009, Petitioner’s attorney also deposited a copy of the Petition to Cancel with the US Postal Service for delivery by Express Mail to Registrant’s attorney, Thomas T. Chan, at the following address: P.O. Box 79159, Los Angeles, CA 90079-0159. This address is listed on Mr. Chan’s website (www.chanlaw.com) as his firm’s mailing address. This package arrived at such P.O. Box on October 5, 2009 and signed for by “T CHAN”. Mr. Chan has contacted Petitioner’s attorney on several occasions in his capacity as attorney for Registrant; however, he is not Registrant’s attorney of record as per the PTO’s database.

On October 8, 2009 Petitioner's attorney became aware by checking on the Federal Express website that the October 1, 2009 Federal Express had not yet been delivered to Registrant. Petitioner's attorney then deposited another copy of the Petition to Cancel with the US Postal Service for delivery by Express Mail to Registrant at 4280 Lindblade Drive, Apartment 104, Los Angeles, California 90066-5899, with no signature required. Such package was delivered to this address on October 9, 2009.

On October 9, 2009, Petitioner's attorney became aware that Registrant may no longer reside at 4280 Lindblade Drive, Apartment 104, Los Angeles, California 90066-5899. We now have reason to believe Registrant *may* reside at the following address: 2008 Grant Avenue, Apartment 1, Redondo Beach, CA 90278. This address is listed in the records of the California Secretary of State as the current address of Registrant in his capacity as registered agent and managing member of Digital Ninja, LLC, a California limited liability company. 4280 Lindblade Drive, Apartment 104, Los Angeles, California 90066 is listed as the former address for such entity.

Please contact me with any questions.

Dated: October 21, 2009

Respectfully Submitted,

/Katherine K. Madianos/

Katherine Klammer Madianos, Esq.
Attorney for Petitioner
(512) 569-3262